

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Claims 1-29 are now pending in this application. Claims 1, 3, 5-7, 9, 11, 17, 22 and 24 have been amended without introducing any new matter. Claims 2, 27 have been canceled. Claims 28 and 29 have been added.

Applicants' Attorneys would like to thank the Examiner for the acknowledgment of allowable subject matter in claims 4-8, 10, 12 and 18-20.

Rejections Under 35 U.S.C. § 102(e)

Claims 1-3, 13-17, 21-23 and 27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Tong. The Examiner states that Tong discloses a wireless communications kit for use with a cellular telephone essentially as claimed.

Applicant respectfully submits that Tong's communication headset is not wireless. Applicant has amending claim 1 to include the limitations in dependent claim 2 calling for a microphone, speaker, rechargeable battery and communications circuitry. Tong does not teach or suggest implementing communication circuitry in his headset nor a battery for powering such circuitry.

Further, Applicants have amended claim 1 to more specifically refer to the mount as a "a common mount." Tong's ear piece attachment is connected to his headset at reference number 250 (FIG. 2A) via clamp 51 and his eye glass attachment is connected at orifice 26 via attachment end 69 of attachment 60. See FIGS. 2A, 5A and 6A. Accordingly, the eye glass attachment and the ear piece attachment of ***Tong attach to two different structures on his headset housing.*** Claim 1, as

amended, specifies a “common mount” for connection of both the first and second attachments, which is possible because each is shaped to secure themselves to the same “mount.” Applicant submit that the feature of the “common mount” is part of the original claim, and that the present amendment clarifies a distinction over Tong’s non-common mount without narrowing the scope of the claim. Applicant respectfully requests withdrawal of the above rejection in view of the foregoing remarks.

Claims 3 and 13-16 depend from amended claim 1 and are patentable for at least the reasons stated above with respect to claim 1.

Rejections Under 35 U.S.C. § 103(a)

Claims 9, 11 and 24-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable for obviousness over Tong in view of one of ordinary skill in the art.

Claim 9 has been amended to depend from new claim 28, discussed below, and is believed to be in condition for allowance for at least that reason.

Claim 11 depends from amended claim 1 and is believed to be allowable for at least the reasons stated above with respect to claim 1.

Regarding claims 24-26, claim 24 to has been amended to recite that the magnetic securement is “seated so as to be shielded from the circuitry within the housing.” Tong does not teach or suggest a magnetic attachment between the communications headset and a pair of glasses, and therefore cannot be understood as rendering obvious the further recitations in claim 24 that the magnetic securement be seated in the manner recited in the amended claim. Reconsideration and allowance of claims 24-26 is requested.

New independent claims 28 and 29 incorporate the subject matter indicated by the Examiner as being allowable. Thus, claim 28 includes the subject matter of dependent claims 2-4 into base claim 1, and claim 29 includes the subject matter of dependent claims 9 and 10 into base claim 1.

In view of the above amendments and remarks, it is believed that claims 1, 3-26, 28 and 29 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

Respectfully submitted,

Registration No.: 36,195
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(206) 262-8919
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant